

AMENDED IN ASSEMBLY AUGUST 18, 2004

AMENDED IN ASSEMBLY JUNE 21, 2004

AMENDED IN ASSEMBLY JUNE 7, 2004

AMENDED IN SENATE JANUARY 16, 2004

AMENDED IN SENATE JANUARY 7, 2004

SENATE BILL**No. 50**

Introduced by Senator Sher

January 9, 2003

An act to amend Section 25214.10 of, and to add Sections 25214.10.1 and 25214.10.2 to, the Health and Safety Code, and to amend Sections 42463, 42464, 42465, 42465.1, 42465.2, 42465.3, 42475, 42475.2, 42476, 42476.5, 42477, 42478, and 42485 of, to add Sections 42464.4, 42464.6, and 42486 to, to repeal Section 42475.1 of, and to repeal and add Section 42464.2 of, the Public Resources Code, relating to solid waste, *and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 50, as amended, Sher. Solid waste: hazardous electronic waste.

(1) The Electronic Waste Recycling Act of 2003 makes it unlawful to sell, on or after July 1, 2004, a covered electronic device, as defined, in this state to a consumer, as defined, unless the California Integrated Waste Management Board (board) or the Department of Toxic Substances Control (department) determines that the manufacturer of that device is in compliance with the act. The act requires a retailer selling a covered electronic device in this state to collect a covered electronic waste recycling fee from the consumer, as specified. The act

requires a manufacturer, on or before April 1, 2004, to inform the retailer if a covered electronic device is subject to the waste recycling fee.

This bill would require the department to adopt regulations to identify electronic devices ~~that are video display devices with a screen size of greater than 4 inches, as defined,~~ that the department ~~has determined~~ *determines* are presumed to be, when discarded, a hazardous waste pursuant to the hazardous waste control laws. ~~The bill would require the department to adopt regulations for determining whether an electronic device, when discarded, is not a hazardous waste.~~

The bill would require a manufacturer to inform a retailer and the State Board of Equalization ~~by August 1, 2004, and by April 1, annually thereafter,~~ *in accordance with a specified schedule*, whether a device is a covered electronic device ~~for purposes of the act that is identified in the regulations adopted by the department~~ and would require a covered electronic device identified in the regulations ~~adopted by July 1, 2004,~~ to be subject to the act ~~on and after November 1, 2004 in a specified manner.~~ The bill would specify a procedure for a manufacturer to obtain ~~the determination of a written nonhazardous determination from~~ the department that an electronic device ~~is not subject to the act~~ *would not be a hazardous waste when discarded.* The bill would authorize the department to adopt emergency regulations to implement these requirements.

(2) Existing law, the act, requires a retailer selling a covered electronic device in this state to collect an electronic waste recycling fee from the consumer on and after ~~July~~ *November 1, 2004*, and to transmit the fee to the board in accordance with a schedule and procedures that the board is required to establish. The act requires the board, in collaboration with the department, on and after July 1, 2005, and at least once every 2 years thereafter, to review and adjust the electronic waste recycling fee, based on specified factors.

The bill would revise the definitions of the terms “consumer,” “*covered electronic device*,” “covered electronic waste,” “person,” “retailer,” and “retail sale,” and would define the terms “discarded,” ~~and~~ “recycling,” “*refurbished*,” “*vendor*,” and “*video display device*” for purposes of the act.

~~The bill would require a retailer to collect the fee on and after November 1, 2004, instead of on and after July 1, 2004.~~

The bill would revise the procedures for reviewing and adjusting the covered electronic waste recycling fee.

The bill would repeal the authorization for the board to collect the fee ~~and would require the board, on or before November 1, 2004, in consultation with the State Board of Equalization, to issue a specified notice and establish a call center for the purposes of responding to any inquiries or complaints from retailers or from the public concerning payment or collection of the fee.~~

~~The bill~~ and would require the State Board of Equalization, ~~on and after January 1, 2005,~~ to collect the electronic waste recycling fees ~~from retailers and to deposit.~~ *The bill would require those fees to be deposited in the Electronic Waste Recovery and Recycling Account. The bill would require the covered electronic waste recycling fee to be due and payable quarterly on or before the last day of the month following each calendar quarter.*

(3) The act requires each manufacturer of an electronic device who sells a covered electronic device in this state to submit an annual report to the board on the number of electronic devices sold by the manufacturer.

This bill would authorize a manufacturer to report only on those covered electronic devices that are ~~not subject to exempt from, or contain compounds that are exempt from,~~ Directive 2002/95/EC, as specified.

(4) Under existing law, the Electronic Waste Recovery and Recycling Account is created in the Integrated Waste Management Fund and the board and the department are authorized to expend the moneys deposited in the account, upon appropriation by the Legislature, for specified purposes.

This bill would continuously appropriate the money in the account to pay refunds and make electronic waste recovery payments and recycling payments and would additionally continuously appropriate the money to make specified payments to manufacturers. The bill would authorize the money in the account to be expended, upon appropriation by the Legislature, for the other specified purposes.

The bill would establish the Electronic Waste Penalty Subaccount in the account, would require all fines or penalties collected pursuant to the act to be deposited in the subaccount, and would authorize the expenditure of the funds in the subaccount only upon appropriation by the Legislature.

(5) Existing law requires the board, in collaboration with the department, to establish an electronic waste recovery payment schedule to cover the net cost of an authorized collector in operating a free and

convenient system for collecting, consolidating and transporting covered electronic wastes. Existing law also requires the board to establish an electronic waste recycling payment schedule to cover an e-waste recycler's net cost of receiving, processing, and recycling covered electronic waste.

This bill would require the board to adopt regulations specifying cancellation methods for the recovery, processing, or recycling of covered electronic waste and would revise the conditions under which the board may make those payments, including requiring the manufacturer or authorized collector or recycler to provide a cost-free and convenient opportunity to recycle electronic waste. The bill would allow the board to make electronic waste recycling payments or electronic waste recovery payments only for covered electronic waste that is also require the covered electronic waste, if processed, to be processed in this state according to a the cancellation procedure that the board would be required to adopt. The bill would authorize the board to elect to pay an electronic waste recycling payment or electronic waste recovery payment for covered electronic waste, adopted by the board and, if the waste is recycled, to be recycled in the state, if the board declares that the state is a market participant in the business of the recycling of covered electronic waste, as specified, and the board pays the electronic waste recycling payment or electronic waste recovery. The bill would authorize the board to make a payment to a manufacturer who takes back and accepts covered electronic waste from a consumer in this state, as specified.

~~The bill would authorize the board to make supplemental electronic waste recovery payments to an authorized collector who makes a specified demonstration to the board.~~

(6) Existing law requires a person who intends to export electronic waste to a foreign destination to comply with specified notification requirements and to demonstrate, among other things, that the handling of the exported electronic waste within the country of destination would meet certain standards adopted by the Organization for Economic Cooperation and Development.

This bill would instead require a person who ~~intends to export~~ exports covered electronic waste, or a covered electronic device intended for ~~reuse recycling or disposal~~, to a foreign country, or to another state for ultimate export to a foreign country, to comply with specified notification requirements and make specified demonstrations, including a demonstration with regard to management of the waste in

accordance with the decisions and implementing guidelines of the Organization for Economic Cooperation and Development, notwithstanding that the country of destination is not a member of the Organization for Economic Cooperation and Development.

(7) Existing law prohibits the board and the department from implementing the act if specified circumstances occur.

This bill would provide that the provisions of the act shall become inoperative on the date that one of those circumstances occurs, except for specified purposes.

(8) The bill would also make technical changes to the act.

(9) Because the act is incorporated into the hazardous waste control laws, a violation of which is a crime, the bill would impose a state-mandated local program by creating new crimes.

(10) *The bill would transfer \$5,000,000 from the General Fund to the State Board of Equalization, as a loan to be repaid by July 1, 2005, to pay the administrative costs of collecting the covered electronic waste recycling fee.*

(11) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: ~~no~~—yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25214.10 of the Health and Safety Code
2 is amended to read:
3 25214.10. (a) For purposes of this ~~chapter~~ *section*,
4 “electronic device” has the same meaning as a “covered
5 electronic device,” as defined in Section 42463 of the Public
6 Resources Code.
7 (b) The department shall adopt regulations, in accordance with
8 this section, that prohibit an electronic device from being sold or
9 offered for sale in this state if the electronic device is prohibited
10 from being sold or offered for sale in the European Union on and
11 after its date of manufacture, to the extent that Directive
12 2002/95/EC, adopted by the European Parliament and the Council

1 of the European Union on January 27, 2003, and as amended
2 thereafter by the Commission of European Communities,
3 prohibits that sale due to the presence of certain heavy metals.

4 (c) The regulations adopted pursuant to subdivision (b) shall
5 take effect January 1, 2007, or on or after the date Directive
6 2002/95/EC, adopted by the European Parliament and the Council
7 of the European Union on January 27, 2003, takes effect,
8 whichever date is later.

9 (d) The department shall exclude, from the regulations adopted
10 pursuant to this section, the sale of an electronic device that
11 contains a substance that is used to comply with the consumer,
12 health, or safety requirements that are required by the
13 Underwriters Laboratories, the federal government, or the state.

14 (e) In adopting regulations pursuant to this section, the
15 department may not require the manufacture or sale of an
16 electronic device that is different than, or otherwise not prohibited
17 by, the European Union under Directive 2002/95/EC, adopted by
18 the European Parliament and the Council of the European Union
19 on January 27, 2003.

20 (f) (1) The department may not adopt any regulations pursuant
21 to this section that impose any requirements or conditions that are
22 in addition to, or more stringent than, the requirements and
23 conditions expressly authorized by this section.

24 (2) In complying with this subdivision, the department shall
25 use, in addition to any other information deemed relevant by the
26 department, the published decisions of the Technical Adaptation
27 Committee and European Union member states that interpret the
28 requirements of Directive 2002/95/EC.

29 SEC. 2. Section 25214.10.1 is added to the Health and Safety
30 Code, to read:

31 ~~25214.10.1. (a) (1) For purposes of this section,~~
32 ~~“manufacturer” and “retailer” have the same meaning as defined~~
33 ~~in Section 42463 of the Public Resources Code.~~

34 ~~(2) The department shall adopt regulations that identify~~
35 ~~electronic devices that are video display devices with a screen size~~
36 ~~of greater than four inches and that the department determines are~~
37 ~~presumed to be, when discarded, a hazardous waste pursuant to~~
38 ~~this chapter.~~

1 ~~(3) The department shall adopt regulations for determining~~
2 ~~whether an electronic device, when discarded would not be a~~
3 ~~hazardous waste.~~

4 ~~(b) Except as provided in subdivision (d), on or before August~~
5 ~~1, 2004, and on or before every April 1 of each year thereafter, a~~
6 ~~manufacturer, shall inform the State Board of Equalization and a~~
7 ~~retailer that sells an electronic device manufactured by that~~
8 ~~manufacturer whether that electronic device is listed in~~
9 ~~subparagraphs (A) to (C), inclusive, of paragraph (1) of~~
10 ~~subdivision (f) of Section 42463 of the Public Resources Code, or~~
11 ~~is identified in the regulations adopted by the department pursuant~~
12 ~~to paragraph (2) of subdivision (a). The manufacturer shall inform~~
13 ~~the State Board of Equalization and the retailer that the electronic~~
14 ~~device is a covered electronic device and is subject to a fee in~~
15 ~~accordance with subdivision (c).~~

16 ~~(c) (1) Except as provided in subdivision (d), each covered~~
17 ~~electronic device that is listed in paragraph (1) of subdivision (f)~~
18 ~~of Section 42463 of the Public Resources Code, or that is identified~~
19 ~~in the regulations adopted, on or before July 1, 2004, by the~~
20 ~~department, pursuant to paragraph (2) of subdivision (a), shall, on~~
21 ~~and after November 1, 2004, be subject to Chapter 8.5~~
22 ~~(commencing with Section 42460) of Part 3 of Division 30 of the~~
23 ~~Public Resources Code, including the fee imposed pursuant to~~
24 ~~Section 42464 of the Public Resources Code.~~

25 ~~(2) Except as provided in subdivision (d), each covered~~
26 ~~electronic device identified in the regulations adopted, on or after~~
27 ~~July 2, 2004, by the department, pursuant to paragraph (2) of~~
28 ~~subdivision (a), shall, on and after the July 1 of the subsequent year~~
29 ~~in which the device is first identified in the regulations, be subject~~
30 ~~to Chapter 8.5 (commencing with Section 42460) of Part 3 of~~
31 ~~Division 30 of the Public Resources Code, including the fee~~
32 ~~imposed pursuant to Section 42464 of the Public Resources Code.~~

33 ~~(d) The manufacturer of an electronic device that is listed in~~
34 ~~paragraph (1) of subdivision (f) of Section 42463 of the Public~~
35 ~~Resources Code, or is identified in the regulations adopted by the~~
36 ~~department pursuant to paragraph (2) of subdivision (a), may~~
37 ~~apply to the department for a determination that the device is~~
38 ~~nonhazardous, in accordance with procedures set forth in~~
39 ~~regulations adopted by the department pursuant to paragraph (3)~~
40 ~~of subdivision (a). If the department determines that the electronic~~

~~device is nonhazardous, the electronic device is not subject to Chapter 8.5 (commencing with Section 42460) of Part 3 of Division 30 of the Public Resources Code on the first day of the quarter that begins at least 30 days after the last date on which the following required actions have occurred:~~

~~(1) The date when the department provides a written statement to the manufacturer that the electronic device is nonhazardous.~~

~~(2) The date when the manufacturer notifies all retailers selling the electronic device of the department's determination.~~

~~(3) The date on which the department notifies the State Board of Equalization in writing of its determination.~~

~~(4) The date on which the department posts its determination on its Web site.~~

25214.10.1. (a) For purposes of this section, the following definitions shall apply:

(1) "Electronic device" means a video display device, as defined in subdivision (u) of Section 42463 of the Public Resources Code, with a screen size of greater than four inches.

(2) "Covered electronic device," "manufacturer," and "retailer" have the same meaning as those terms are defined in Section 42463 of the Public Resources Code.

(b) The department shall adopt regulations that identify electronic devices that the department determines are presumed to be, when discarded, a hazardous waste pursuant to this chapter.

(c) (1) Except as provided in subdivision (e), a manufacturer of an electronic device that is identified in the regulations adopted by the department shall send a notice in accordance with the schedule specified in subparagraph (A) or (B), as applicable, of paragraph (3), to any retailer that sells that electronic device manufactured by the manufacturer. The notice shall identify the electronic device, and shall inform the retailer that the electronic device is a covered electronic device and is subject to a fee in accordance with subdivision (d). A manufacturer may satisfy this requirement by either of the following methods:

(A) The manufacturer may send the notice directly to the retailer.

(B) The manufacturer may send the notice to a wholesaler, if the wholesaler sends the notice to the retailer and the wholesaler provides to the manufacturer a list of all retailers to which the wholesaler provides the notice. If a manufacturer submits the

1 notice to a wholesaler; the wholesaler shall send the notice to the
2 retailer in accordance with the schedule specified in subparagraph
3 (A) or (B) of paragraph (3), whichever is applicable.

4 (2) A manufacturer subject to this subdivision shall also send
5 a copy of the notice to the State Board of Equalization.

6 (3) The notice required by this subdivision shall be sent in
7 accordance with the following schedule:

8 (A) On or before October 1, 2004, the manufacturer shall send
9 a notice covering any electronic device manufactured by that
10 manufacturer that is identified in the regulations adopted by the
11 department on or before July 1, 2004, that identify the electronic
12 devices that the department determines are presumed to be, when
13 discarded, a hazardous waste pursuant to this chapter.

14 (B) On or before April 1, 2005, and on or before every April 1
15 of each year thereafter, the manufacturer shall send a notice
16 covering any electronic device manufactured by that manufacturer
17 identified in the regulations adopted by the department pursuant
18 to subdivision (b) on or before December 31 of the prior year.

19 (4) If a retailer sells a refurbished covered electronic device,
20 the manufacturer is required to comply with the notice requirement
21 of this subdivision only if the manufacturer directly or indirectly
22 supplies the refurbished covered electronic device to the retailer.

23 (d) (1) Except as provided in subdivision (e), a covered
24 electronic device that is identified in the regulations adopted, on
25 or before July 1, 2004, by the department, that identify electronic
26 devices that the department determines are presumed to be, when
27 discarded, a hazardous waste pursuant to this chapter shall, on
28 and after November 1, 2004, be subject to Chapter 8.5
29 (commencing with Section 42460) of Part 3 of Division 30 of the
30 Public Resources Code, including the fee imposed pursuant to
31 Section 42464 of the Public Resources Code.

32 (2) Except as provided in subdivision (e), an covered electronic
33 device identified in the regulations adopted by the department,
34 pursuant to subdivision (b), shall, on and after July 1 of the year
35 subsequent to the year in which the covered electronic device is
36 first identified in the regulations, be subject to Chapter 8.5
37 (commencing with Section 42460) of Part 3 of Division 30 of the
38 Public Resources Code, including the fee imposed pursuant to
39 Section 42464 of the Public Resources Code.

1 (e) (1) *If the manufacturer of an electronic device that is*
2 *identified in the regulations adopted by the department pursuant*
3 *to subdivision (b) obtains the concurrence of the department that*
4 *an electronic device, when discarded, would not be a hazardous*
5 *waste, in accordance with procedures set forth in Section*
6 *66260.200 of Title 22 of the California Code of Regulations, the*
7 *electronic device shall cease to be a covered electronic device and*
8 *shall cease to be subject to subdivisions (c) and (d) on the first day*
9 *of the quarter that begins not less than 30 days after the date that*
10 *the department provides the manufacturer with a written*
11 *nonhazardous concurrence for the electronic device pursuant to*
12 *this subdivision.*

13 (2) *No later than 10 days after the date that the department*
14 *issues a written nonhazardous concurrence to the manufacturer,*
15 *the department shall do both of the following:*

16 (A) *Post on the department's Web site a copy of the*
17 *nonhazardous concurrence, including, but not limited to, an*
18 *identification and description of the electronic device to which the*
19 *concurrence applies.*

20 (B) *Send a copy of the nonhazardous concurrence, including,*
21 *but not limited to, an identification and description of the*
22 *electronic device to which the concurrence applies, to the*
23 *California Integrated Waste Management Board and the State*
24 *Board of Equalization.*

25 SEC. 3. Section 25214.10.2 is added to the Health and Safety
26 Code, to read:

27 25214.10.2. A regulation adopted pursuant to this article may
28 be adopted as an emergency regulation in accordance with Chapter
29 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
30 Title 2 of the Government Code, and for the purposes of that
31 chapter, including Section 11349.6 of the Government Code, the
32 adoption of these regulations is an emergency and shall be
33 considered by the Office of Administrative Law as necessary for
34 the immediate preservation of the public peace, health, and safety,
35 and general welfare. Notwithstanding Chapter 3.5 (commencing
36 with Section 11340) of Part 1 of Division 3 of Title 2 of the
37 Government Code, an emergency regulation adopted by the
38 department pursuant to this section shall be filed with, but not be
39 repealed by, the Office of Administrative Law and shall remain in

1 effect for a period of two years or until revised by the department,
2 whichever occurs sooner.

3 SEC. 4. Section 42463 of the Public Resources Code is
4 amended to read:

5 42463. For the purposes of this chapter, the following terms
6 have the following meanings, unless the context clearly requires
7 otherwise:

8 (a) “Account” means the Electronic Waste Recovery and
9 Recycling Account created in the Integrated Waste Management
10 Fund under Section 42476.

11 (b) “Authorized collector” means any of the following:

12 (1) A city, county, or district that collects covered electronic
13 devices.

14 (2) A person or entity that is required or authorized by a city,
15 county, or district to collect covered electronic devices pursuant to
16 the terms of a contract, license, permit, or other written
17 authorization.

18 (3) A nonprofit organization that collects or accepts covered
19 electronic devices.

20 (4) A manufacturer or agent of the manufacturer that collects,
21 consolidates, and transports covered electronic devices for
22 recycling from consumers, businesses, institutions, and other
23 generators.

24 (5) An entity that collects, handles, consolidates, and transports
25 covered electronic devices and has filed ~~a notification with the~~
26 ~~department pursuant to Article 7 (commencing with Section~~
27 ~~66273.80) of Chapter 23 of Division 4.5 of Title 22 of the~~
28 *applicable notifications with the department pursuant to Chapter*
29 *23 (commencing with Section 66273.1) of Division 4.5 of Title 22*
30 *of the California Code of Regulations.*

31 (c) “Board” means the California Integrated Waste
32 Management Board.

33 (d) ~~(1)~~ “Consumer” means a person who purchases a new or
34 refurbished covered electronic device in a transaction that is a
35 retail sale or in a transaction to which a use tax applies pursuant to
36 Part 1 (commencing with Section 6001) of Division 2 of the
37 Revenue and Taxation Code.

38 ~~(2) “Consumer” does not include a manufacturer who~~
39 ~~purchases specialty or medical electronic equipment that is a~~
40 ~~covered electronic device.~~

(e) “Department” means the Department of Toxic Substances Control.

~~(f) (1) “Covered electronic device” means a cathode ray tube, cathode ray tube device, flat panel screen, or any other similar video display device with a screen size that is greater than four inches in size measured diagonally and which the department determines, when discarded or disposed, would be a hazardous waste pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code.~~

~~(2) If the manufacturer of an electronic device, obtains the determination of the department that the electronic device is nonhazardous, in accordance with subdivision (d) of Section 25214.10.1 of the Health and Safety Code, the electronic device is not a covered electronic device for purposes of this chapter on the first day of the quarter that begins at least 30 days after the last date of the required actions specified in paragraphs (1) and (2) of subdivision (d) of Section 25214.10.1 of the Health and Safety Code.~~

~~(3)~~

(f) (1) Except as provided in paragraph (2), “covered electronic device” means a video display device containing a screen greater than four inches, measured diagonally, that is identified in the regulations adopted by the department pursuant to subdivision (b) of Section 25214.10.1 of the Health and Safety Code.

(2) “Covered electronic device” does not include any of the following:

(A) A video display device that is a part of a motor vehicle, as defined in Section 415 of the Vehicle Code, or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle.

(B) A video display device that is contained within, or a part of a piece of industrial, commercial, or medical equipment, including monitoring or control equipment, and that is not separate from that equipment. *For purposes of this subparagraph, “industrial, commercial, or medical equipment” means those devices listed in Categories (8) and (9) of the European Union Directive 2002/96/EC.*

(C) A video display device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room ~~air conditioner, dehumidifier, or air purifier, that is prohibited from being disposed at a solid waste landfill.~~ *air conditioner, dehumidifier, or air purifier.*

(D) *An electronic device, on and after the date that it ceases to be a covered electronic device under subdivision (e) of Section 25214.10.1 of the Health and Safety Code.*

(g) “Covered electronic waste” or “covered e-waste” means a covered electronic device that is discarded.

(h) “Covered electronic waste recycling fee” or “covered e-waste recycling fee” means the fee imposed pursuant to Article 3 (commencing with Section 42464).

(i) “Covered electronic waste recycler” or “covered e-waste recycler” means any of the following:

(1) A person who engages in the manual or mechanical separation of covered electronic devices to recover components and commodities contained therein for the purpose of reuse or recycling.

(2) A person who changes the physical or chemical composition of a covered electronic device, in accordance with the requirements of Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code and the regulations adopted pursuant to that chapter, by deconstructing, size reduction, crushing, cutting, sawing, compacting, shredding, or refining for purposes of segregating components, for purposes of recovering or recycling those components, and who arranges for the transport of those components to an end user.

(3) A manufacturer who meets any conditions established by this chapter and Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code for the collection or recycling of covered electronic waste.

(j) “Discarded” has the same meaning as defined in subdivision (b) of Section 25124 of the Health and Safety Code.

(k) “Electronic waste recovery payment” means an amount established and paid by the board pursuant to Section 42477.

(l) “Electronic waste recycling payment” means an amount established and paid by the board pursuant to Section 42478.

(m) “Hazardous material” has the same meaning as defined in Section 25501 of the Health and Safety Code.

(n) “Manufacturer” means any of the following:

(1) A person who ~~manufacturers~~ *manufactures* a covered electronic device sold in this state.

(2) A person who sells a covered electronic device in this state under ~~a~~ *that* person’s brand name.

(o) “Person” means an individual, trust firm, joint stock company, business concern, and corporation, including, but not limited to, a government corporation, partnership, limited liability company, and association. Notwithstanding Section 40170, “person” also includes a city, county, city and county, district, commission, the state or a department, agency, or political subdivision thereof, an interstate body, and the United States and its agencies and instrumentalities to the extent permitted by law.

(p) “Recycling” has the same meaning as defined in subdivision (a) of Section 25121.1 of the Health and Safety Code.

(q) “*Refurbished*,” when used to describe a covered electronic device, means a device that the manufacturer has tested and returned to a condition that meets factory specifications for the device, has repackaged, and has labeled as refurbished.

(r) “Retailer” means a person who makes a retail sale of a new or refurbished covered electronic device. “Retailer” includes a manufacturer of a covered electronic device who sells that covered electronic device directly to a consumer through any means, including, but not limited to, a transaction conducted through a sales outlet, catalog, or the Internet, or any other similar electronic means.

~~(r)~~

(s) (1) “Retail sale” has the same meaning as defined under Section 6007 of the Revenue and Taxation Code.

~~SEC. 5. Section 42464 of the Public Resources Code is amended to read:~~

~~42464. (a) On and after November 1, 2004, a covered electronic waste recycling fee is hereby imposed upon the first sale in the state of a covered electronic device to a consumer by a retailer.~~

~~(b) A retailer that sells a covered electronic device to a consumer shall collect the fee imposed under subdivision (a) for~~

~~each covered electronic device sold by the retailer in the following amounts:~~

~~(1) Six dollars (\$6) for each covered electronic device with a screen size of less than 15 inches measured diagonally.~~

~~(2) Eight dollars (\$8) for each covered electronic device with a screen size greater than or equal to 15 inches but less than 35 inches measured diagonally.~~

~~(3) Ten dollars (\$10) for each covered electronic device with a screen size greater than or equal to 35 inches measured diagonally.~~

~~(c) A retailer may retain 3 percent of the covered electronic waste recycling fee as reimbursement for all costs associated with the collection of the fee and shall transmit the remainder of the fee to the state pursuant to Section 42464.4.~~

~~(d) If a retailer elects to pay the covered electronic waste recycling fee on behalf of the consumer, the retailer shall provide an express statement to that effect on the invoice given to the consumer at the time of sale. If a retailer pays the covered electronic waste recycling fee on behalf of the consumer, the fee is a debt owed by the retailer to the state, and the consumer is not liable for the fee.~~

~~(e) The retailer shall separately state the covered electronic waste recycling fee on the invoice given to the consumer at the time of sale.~~

~~(f) On or before May 1, 2005, and, thereafter, no more frequently than annually, and no less frequently than biennially, the board, in collaboration with the department, shall review, at a public hearing, the covered electronic waste recycling fee and shall make adjustments to the fee to ensure that there are sufficient revenues in the account to fund the covered electronic waste recycling program established pursuant to this chapter. Adjustments to the fee that are made on or before May 1 of the current calendar year shall apply for the 12-month period of July 1 of the current calendar year to June 30 of the next succeeding calendar year. The board shall base an adjustment of the covered electronic waste recycling fee on both of the following factors:~~

~~(1) The sufficiency, and a surplus, of revenues in the account to fund the collection, consolidation, and recycling of covered electronic waste that is projected to be recycled in the state.~~

~~(2) The sufficiency of revenues in the account for the board and the department to administer, enforce, and promote the program~~

1 established pursuant to this chapter, plus a prudent reserve not to
2 exceed 5 percent of the amount in the account.

3 ~~(g) (1) The board may eliminate the covered electronic waste~~
4 ~~recycling fee on an electronic device if the manufacturer of that~~
5 ~~electronic device demonstrates to the satisfaction of the~~
6 ~~department that the device is not hazardous pursuant to~~
7 ~~subdivision (d) of Section 25214.10.1 of the Health and Safety~~
8 ~~Code.~~

9 ~~(2) A determination that a covered electronic device is not~~
10 ~~hazardous does not require the board to refund the electronic waste~~
11 ~~recycling fees collected prior to that determination, and does not~~
12 ~~relieve a retailer from collecting and paying an electronic waste~~
13 ~~recycling fee on a covered electronic device sold prior to that~~
14 ~~determination.~~

15 ~~(2) “Retail sale” does not include the sale of a covered~~
16 ~~electronic device that is temporarily stored or used in California~~
17 ~~for the sole purpose of preparing the covered electronic device for~~
18 ~~use thereafter solely outside the state, and that is subsequently~~
19 ~~transported outside the state and thereafter used solely outside the~~
20 ~~state.~~

21 ~~(t) “Vendor” means a person who makes a sale of a covered~~
22 ~~electronic device for the purpose of resale to a retailer.~~

23 ~~(u) “Video display device” means an electronic device with an~~
24 ~~output surface that displays, or is capable of displaying, moving~~
25 ~~graphical images or a visual representation of image sequences or~~
26 ~~pictures, showing a number of quickly changing images on a~~
27 ~~screen in fast succession to create the illusion of motion, including,~~
28 ~~if applicable, a device that is an integral part of the display, in that~~
29 ~~it cannot be easily removed from the display by the consumer, that~~
30 ~~produces the moving image on the screen. A video display device~~
31 ~~may use, but is not limited to, a cathode ray tube (CRT), liquid~~
32 ~~crystal display (LCD), gas plasma, digital light processing, or~~
33 ~~other image projection technology.~~

34 ~~SEC. 5. Section 42464 of the Public Resources Code is~~
35 ~~amended to read:~~

36 42464. (a) On and after November 1, 2004, or as otherwise
37 provided by Section 25214.10.1 of the Health and Safety Code, a
38 consumer shall pay a covered electronic waste recycling fee is
39 hereby imposed upon the first sale in the state of a purchase of a

~~new or refurbished covered electronic device to a consumer by a retailer.~~

~~(b) A retailer that sells a covered electronic device to a consumer shall collect the fee imposed under subdivision (a) for each covered electronic device sold by the retailer, in the following amounts:~~

~~(1) Six dollars (\$6) for each covered electronic device with a screen size of less than 15 inches measured diagonally.~~

~~(2) Eight dollars (\$8) for each covered electronic device with a screen size greater than or equal to 15 inches but less than 35 inches measured diagonally.~~

~~(3) Ten dollars (\$10) for each covered electronic device with a screen size greater than or equal to 35 inches measured diagonally.~~

~~(b) Except as provided in subdivision (d), a retailer shall collect from the consumer a covered electronic waste recycling fee at the time of the retail sale of a covered electronic device.~~

~~(c) The electronic waste recycling fee collected pursuant to this section shall be transmitted to the board in accordance with a schedule and procedure that the board shall establish pursuant to Sections 42475 and 42475.2. The covered electronic waste recycling fees shall be deposited in the account pursuant to Section 42476.~~

~~(d) A retailer selling a covered electronic device may retain 3 percent of the covered electronic waste recycling fee as reimbursement for any all costs associated with the collection of the fee and shall transmit the remainder of the fee to the state pursuant to Section 42464.4.~~

~~(d) (1) If a retailer elects to pay the covered electronic waste recycling fee on behalf of the consumer, the retailer shall provide an express statement to that effect on the receipt given to the consumer at the time of sale. If a retailer elects to pay the covered electronic waste recycling fee on behalf of the consumer, the fee is a debt owed by the retailer to the state, and the consumer is not liable for the fee.~~

~~(2) A retailer may elect to pay the covered electronic waste recycling fee on behalf of the consumer by paying the covered electronic waste recycling fee to its vendor, but only if all of the following conditions are met:~~

1 (A) The vendor is registered with the State Board of
2 Equalization to collect and remit the covered electronic waste
3 recycling fee.

4 (B) The retailer and the vendor have agreed that the vendor will
5 collect the covered electronic waste recycling fee from the retailer
6 and remit the amounts collected to the State Board of Equalization.

7 (C) The retailer paid the covered electronic waste recycling fee
8 to the vendor, which shall be separately stated on the vendor's
9 invoice to the retailer.

10 (D) The retailer shall provide an express statement on the
11 invoice, contract, or other record documenting the sale given to the
12 consumer, that the covered electronic waste recycling fee has been
13 paid on behalf of the consumer.

14 (3) For the purpose of making the election in paragraph (2), if
15 the conditions set forth in subparagraphs (A), (B), and (C) of
16 paragraph (2), are met, the covered electronic waste recycling fee
17 is a debt owed by the vendor to the state, and the consumer and the
18 retailer are not liable for the fee.

19 (e) ~~On and after July 1, 2005, and at least once every two years~~
20 ~~thereafter~~ The retailer shall separately state the covered electronic
21 waste recycling fee on the receipt given to the consumer at the time
22 of sale.

23 (f) On or before May 1, 2005, and, thereafter, no more
24 frequently than annually, and no less frequently than biennially,
25 the board, in collaboration with the department, shall review, at a
26 public hearing, the covered electronic waste recycling fee and
27 shall make any adjustments to the fee to ensure that there are
28 sufficient revenues in the account to fund the covered electronic
29 waste recycling program established pursuant to this chapter.
30 Adjustments to the fee that are made on or before May 1 of any
31 calendar year shall apply for the 12-month period beginning July
32 1 of that calendar year and ending June 30 of the succeeding
33 calendar year. The board shall base ~~any~~ an adjustment of the
34 covered electronic waste recycling fee on ~~the~~ both of the following
35 factors:

36 (1) The sufficiency, and any surplus, of revenues in the account
37 to fund the collection, consolidation, and recycling of ~~100 percent~~
38 ~~of the~~ covered electronic waste that is projected to be recycled in
39 the state.

(2) The sufficiency of revenues in the account for the board and the department to administer, enforce, and promote the program established pursuant to this chapter, plus a prudent reserve not to exceed 5 percent of the amount in the account.

SEC. 6. Section 42464.2 of the Public Resources Code is repealed.

SEC. 7. Section 42464.2 is added to the Public Resources Code, to read:

~~42464.2. (a) The covered electronic waste recycling fee imposed pursuant to this chapter shall be collected in the following manner:~~

~~(1) On or before November 1, 2004, in consultation with the State Board of Equalization, the board shall do all of the following:~~

~~(A) Issue a notice to each retailer who sells a covered electronic device that describes the retailer's obligations under this chapter to register with, and collect and remit electronic waste recycling fees to, the State Board of Equalization for the purposes of complying with this chapter. The notice shall include all information the State Board of Equalization deems necessary to ensure efficient and enforceable collection of electronic waste recycling fees consistent with this section.~~

~~(B) Establish a call center for the purposes of responding to any inquiries or complaints from retailers or from the public concerning payment or collection of the electronic waste recycling fee.~~

~~(2) On and after January 1, 2005, the State Board of Equalization shall collect electronic waste recycling fees from retailers and deposit those fees in the account. The State Board of Equalization may collect the fees pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code), except that for purposes of the Fee Collection Procedures Law, the retailer shall be deemed to be the fee payer, as defined in Section 55004 of the Revenue and Taxation Code.~~

~~(b) The board and the State Board of Equalization shall share data and expertise to ensure the timely and efficient implementation of this section.~~

42464.2. The State Board of Equalization shall collect the fee imposed pursuant to this chapter under the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of

1 *Division 2 of the Revenue and Taxation Code*). For the purposes
2 *of this section, a reference in the Fee Collection Procedures Law*
3 *to “feepayer” shall include a retailer, a consumer, and, if an*
4 *election is made pursuant to paragraph (2) of subdivision (d) of*
5 *Section 42464, a vendor.*

6 SEC. 8. Section 42464.4 is added to the Public Resources
7 Code, to read:

8 42464.4. (a) The covered electronic waste recycling fee shall
9 be due and payable quarterly on or before the last day of the month
10 following each calendar quarter. The payments shall be
11 accompanied by a return in the form as prescribed by the State
12 Board of Equalization or that person authorized to collect,
13 including, but not limited to, electronic media.

14 (b) The State Board of Equalization may require the payment
15 of the fee and the filing of returns for other than quarterly periods.

16 SEC. 8.5. Section 42464.6 is added to the Public Resources
17 Code, to read:

18 42464.6. (a) *The State Board of Equalization shall not accept*
19 *or consider a petition for redetermination of fees determined under*
20 *this chapter if the petition is founded upon the grounds that an item*
21 *is or is not a covered electronic device. The State Board of*
22 *Equalization shall forward to the department any appeal of a*
23 *determination that is based on the grounds that an item is or is not*
24 *a covered electronic device.*

25 (b) *The State Board of Equalization shall not accept or*
26 *consider a claim for refund of fees paid pursuant to this chapter if*
27 *the claim is founded upon the grounds that an item is or is not a*
28 *covered electronic device. The State Board of Equalization shall*
29 *forward to the department any claim for refund that is based on the*
30 *grounds that an item is or is not a covered electronic device.*

31 SEC. 9. Section 42465 of the Public Resources Code is
32 amended to read:

33 ~~42465. On and after November 1, 2004, or as specified~~
34 ~~otherwise in Section 25214.10.1 of the Health and Safety Code, it~~
35 ~~shall be unlawful to sell a covered electronic device to a consumer~~

36 42465. A person shall not sell a new or refurbished covered
37 electronic device to a consumer in this state unless the board or
38 department determines that the manufacturer of that covered
39 electronic device demonstrates compliance with this chapter or as

1 *provided otherwise by Section 25214.10.1 of the Health and Safety*
2 *Code.*

3 SEC. 10. Section 42465.1 of the Public Resources Code is
4 amended to read:

5 42465.1. On and after January 1, 2005, or as specified
6 otherwise in Section 25214.10.1 of the Health and Safety Code, a
7 person may not sell or offer for sale in this state a *new or*
8 *refurbished* covered electronic device unless the device is labeled
9 with the name of the manufacturer or the manufacturer's brand
10 label, so that it is readily visible.

11 SEC. 11. Section 42465.2 of the Public Resources Code is
12 amended to read:

13 42465.2. (a) On or before July 1, 2005, or as specified
14 otherwise in Section 25214.10.1 of the Health and Safety Code,
15 and at least once annually thereafter as determined by the board,
16 each manufacturer of a covered electronic device sold in this state
17 shall do all of the following:

18 (1) Submit to the board a report that includes all of the
19 following information:

20 (A) An estimate of the number of covered electronic devices
21 sold by the manufacturer in the state during the previous year.

22 (B) A baseline or set of baselines that show the total estimated
23 amounts of mercury, cadmium, lead, hexavalent chromium,
24 ~~PBDE's to the extent the department considers those substances to~~
25 ~~be PBDE's to the extent those substances are~~ a hazardous material,
26 and PBB's used in covered electronic devices manufactured by the
27 manufacturer in that year and the reduction in the use of those
28 hazardous materials from the previous year. ~~The department may~~
29 ~~specify a minimum threshold for specified materials requiring~~
30 ~~reporting.~~ year.

31 (C) A baseline or set of baselines that show the total estimated
32 amount of recyclable materials contained in covered electronic
33 devices sold by the manufacturer in that year and the increase in
34 the use of those recyclable materials from the previous year.

35 (D) A baseline or a set of baselines that describe any efforts to
36 design covered electronic devices for recycling and goals and
37 plans for further increasing design for recycling.

38 (E) *A list of those retailers, including, but not limited to,*
39 *Internet and catalog retailers, to which the manufacturer provided*
40 *a notice, either directly or indirectly, through a wholesaler, in the*

1 *prior 12 months pursuant to Section 42465.3 and subdivision (c)*
2 *of Section 25214.10.1 of the Health and Safety Code.*

3 (2) Make information available to consumers, that describes
4 where and how to return, recycle, and dispose of the covered
5 electronic device and opportunities and locations for the collection
6 or return of the device, through the use of a toll-free telephone
7 number, Internet Web site, information labeled on the device,
8 information included in the packaging, or information
9 accompanying the sale of covered electronic device.

10 (b) For the purposes of complying with paragraph (1) of
11 subdivision (a), a manufacturer may submit a report to the board
12 that includes only covered electronic devices that are ~~not subject~~
13 ~~to exempt from, or contain compounds that are exempt from, the~~
14 Directive 2002/95/EC adopted by the European Parliament and
15 the Council of the European Union on January 27, 2003, and any
16 amendments made to that directive, if both of the following
17 conditions are met:

18 (1) The manufacturer submits written verification to the
19 department that demonstrates, to the satisfaction of the
20 department, that the manufacturer is in compliance with Directive
21 2002/95/EC, and any amendments to that directive, for those
22 covered electronic devices for which it is not submitting a report
23 to the board pursuant to this subdivision.

24 (2) The department certifies that the manufacturer is in
25 compliance with Directive 2002/95/EC, and any amendments to
26 that directive, for those covered electronic devices for which the
27 manufacturer is not submitting a report to the board pursuant to
28 this subdivision.

29 (c) Any information submitted to the board pursuant to
30 subdivision (a) that is proprietary in nature or a trade secret shall
31 be subject to protection under state laws and regulations governing
32 that information.

33 SEC. 12. Section 42465.3 of the Public Resources Code is
34 amended to read:

35 ~~42465.3. On or before August 1, 2004, and on or before every~~
36 ~~April 1 thereafter, a manufacturer shall inform the retailer if a~~
37 ~~covered electronic device sold by that manufacturer is subject to~~
38 ~~the covered electronic waste recycling fee established pursuant to~~
39 ~~this chapter.~~

1 42465.3. *A manufacturer of a covered electronic device shall*
2 *comply with the notification requirements of subdivision (c) of*
3 *Section 25214.10.1 of the Health and Safety Code.*

4 SEC. 13. Section 42475 of the Public Resources Code is
5 amended to read:

6 42475. (a) The board shall administer and enforce this
7 chapter in consultation with the department.

8 (b) The board and the department may adopt regulations
9 pursuant to Chapter 3.5 (commencing with Section 11340) of Part
10 1 of Division 3 of Title 2 of the Government Code that are
11 necessary to implement this chapter, and any other regulations that
12 the board and the department determines are necessary to
13 implement the provisions of this chapter in a manner that is
14 enforceable.

15 (c) The board shall adopt regulations pursuant to Chapter 3.5
16 (commencing with Section 11340) of Part 1 of Division 3 of Title
17 2 of the Government Code that ensure the protection of any
18 proprietary information submitted to the board by a manufacturer
19 of covered electronic devices.

20 (d) The board and the department may prepare, publish, or
21 issue any materials that the board or department determines to be
22 necessary for the dissemination of information concerning the
23 activities of the board or department under this chapter.

24 (e) In carrying out this chapter, the board and the department
25 may solicit and use any and all expertise available in other state
26 agencies, including, but not limited to, the department, the
27 Department of Conservation, and the State Board of Equalization.

28 SEC. 14. Section 42475.1 of the Public Resources Code is
29 repealed.

30 SEC. 15. Section 42475.2 of the Public Resources Code is
31 amended to read:

32 42475.2. (a) The board and the department may *each* adopt
33 regulations to implement and enforce this chapter as emergency
34 regulations.

35 (b) The emergency regulations adopted pursuant to this chapter
36 shall be adopted in accordance with Chapter 3.5 (commencing
37 with Section 11340) of Part 1 of Division 3 of Title 2 of the
38 Government Code, and for the purposes of that chapter, including
39 Section 11349.6 of the Government Code, the adoption of these
40 regulations is an emergency and shall be considered by the Office

1 of Administrative Law as necessary for the immediate
2 preservation of the public peace, health, safety, and general
3 welfare. Notwithstanding Chapter 3.5 (commencing with Section
4 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
5 any emergency regulations adopted by the board or the department
6 pursuant to this section shall be filed with, but not be repealed by,
7 the Office of Administrative Law and shall remain in effect for a
8 period of two years or until revised by the department or the board,
9 whichever occurs sooner.

10 SEC. 16. Section 42476 of the Public Resources Code is
11 amended to read:

12 ~~42476. (a) The board and the department shall deposit all~~
13 ~~fees or fines collected under this chapter into the Electronic Waste~~
14 ~~Recovery and Recycling Account, which is hereby created in the~~
15 ~~Integrated Waste Management Fund. The funds in the Electronic~~
16 ~~Waste Recovery and Recycling Account may be expended by the~~
17 ~~board and department, upon appropriation by the Legislature, for~~
18 ~~the following purposes:~~

19 ~~(1) To make electronic waste recovery payments to an~~
20 ~~authorized collector of covered electronic waste pursuant to~~
21 ~~Section 42479.~~

22 ~~(2) To make electronic waste recycling payments to covered~~
23 ~~electronic waste recyclers of covered electronic waste pursuant to~~
24 ~~Section 42479.~~

25 ~~(3) To provide for costs of the board and the department to~~
26 ~~administer this chapter.~~

27 ~~(4) To provide funding to the department to implement and~~
28 ~~enforce Chapter 6.5 (commencing with Section 25100) of~~
29 ~~Division 20 of the Health and Safety Code, as that chapter relates~~
30 ~~to covered electronic devices, and any regulations adopted by the~~
31 ~~department pursuant to that chapter.~~

32 ~~(b)–~~

33 *42476. (a) The Electronic Waste and Recovery and*
34 *Recycling Account is hereby established in the Integrated Waste*
35 *Management Fund. All fees collected pursuant to this chapter*
36 *shall be deposited in the account. Notwithstanding Section 13340*
37 *of the Government Code, the funds in the account are hereby*
38 *continuously appropriated, without regard to fiscal year, for the*
39 *following purposes:*

1 *(1) To pay refunds of the covered electronic waste recycling fee*
2 *imposed under Section 42464.*

3 *(2) To make electronic waste recovery payments to an*
4 *authorized collector of covered electronic waste pursuant to*
5 *Section 42479.*

6 *(3) To make electronic waste recycling payments to covered*
7 *electronic waste recyclers pursuant to Section 42479 and to make*
8 *payments to manufacturers pursuant to subdivision (g).*

9 *(b) (1) The money in the account may be expended for the*
10 *following purposes only upon appropriation by the Legislature in*
11 *the annual Budget Act:*

12 *(A) For the administration of this chapter by the board and the*
13 *department.*

14 *(B) To reimburse the State Board of Equalization for its*
15 *administrative costs of registering, collecting, making refunds,*
16 *and auditing retailers and consumers in connection with the*
17 *covered electronic waste recycling fee imposed under Section*
18 *42464.*

19 *(C) To provide funding to the department to implement and*
20 *enforce Chapter 6.5 (commencing with Section 25100) of Division*
21 *20 of the Health and Safety Code, as that chapter relates to covered*
22 *electronic devices, and any regulations adopted by the department*
23 *pursuant to that chapter.*

24 *(D) To establish the public information program specified in*
25 *subdivision (d).*

26 *(2) Any fines or penalties collected pursuant to this chapter*
27 *shall be deposited in the Electronic Waste Penalty Subaccount,*
28 *which is hereby established in the account. The funds in the*
29 *Electronic Waste Penalty Subaccount may be expended by the*
30 *board or department only upon appropriation by the Legislature.*

31 *(c) Notwithstanding Section 16475 of the Government Code,*
32 *any interest earned upon funds in the Electronic Waste Recovery*
33 *and Recycling Account shall be deposited in that account for*
34 *expenditure pursuant to this chapter.*

35 *(d) Not more than 1 percent of the funds annually deposited in*
36 *the Electronic Waste Recovery and Recycling Account shall be*
37 *expended for the purposes of establishing the public information*
38 *program to educate the public in the hazards of improper covered*
39 *electronic device storage and disposal and on the opportunities to*
40 *recycle covered electronic devices.*

~~(c) The board may not make an electronic waste recycling payment or electronic waste recovery payment for covered electronic waste unless that waste is handled in compliance with all statutes and regulations governing the management, including the export, of that waste.~~

~~(f) (1) The board shall adopt regulations specifying the cancellation methods for the recovery, processing, or recycling of covered electronic waste.~~

~~(2) The board may make electronic waste recycling payments or electronic waste recovery payments only if the covered electronic waste is processed in this state according to the cancellation method authorized by the board.~~

~~(g) The board may elect to pay an electronic waste recycling payment or electronic waste recovery payment for covered electronic waste, subject to all of the following terms and conditions:~~

~~(1) The~~

(e) The board shall adopt regulations specifying cancellation methods for the recovery, processing, or recycling of covered electronic waste.

(f) The board may pay an electronic waste recycling payment or electronic waste recovery payment for covered electronic waste only if all of the following conditions are met:

(1) The covered electronic waste, including any residuals from the processing of the waste, is handled in compliance with all applicable statutes and regulations.

(2) The manufacturer or the authorized collector or recycler of the electronic waste provide a cost free and convenient opportunity to recycle electronic waste, in accordance with the legislative intent specified in subdivision (b) of Section 42461.

(3) The covered electronic waste is not exported out of state.

(4) If the covered electronic waste is processed, the covered electronic waste is processed in this state according to the cancellation method authorized by the board.

(5) If the covered electronic waste is recycled, the covered electronic waste is recycled within the state and the board declares that the state is a market participant in the business of the recycling of covered electronic waste for all of the following reasons:

(A) The fee is collected from the state's consumers for covered electronic devices sold for use in the state.

(B) The purpose of the fee and subsequent payments is to prevent damage to the public health and the environment from waste generated in the state.

(C) The recycling system funded by the fee ensures that economically viable and sustainable markets are developed and supported for recovered materials and components in order to conserve resources and maximize business and employment opportunities within the state.

~~(2) The board pays the electronic waste recycling payment or electronic waste recovery payment to a manufacturer who takes back and cancels covered electronic waste from a consumer in this state, in accordance with the requirements of Section 42479. The amount of the electronic waste recycling payment paid by the board shall equal the value of the covered electronic waste recycling fee for that device. To qualify for payment, the manufacturer shall demonstrate to the board that the covered electronic device for which payment is claimed was used in the state.~~

(g) (1) The board may make a payment to a manufacturer that takes back a covered electronic device from a consumer in this state for purposes of recycling the device. The amount of the payment made by the board shall equal the value of the covered electronic waste recycling fee paid for that device. To qualify for a payment pursuant to this subdivision, the manufacturer shall demonstrate all of the following to the board:

(A) The covered electronic device for which payment is claimed was used in this state.

(B) A covered electronic waste recycling fee was paid for the covered electronic device for which payment is being claimed.

(C) The covered electronic waste for which a payment is claimed, including any residuals from the processing of the waste, has been, and will be, handled in compliance with all applicable statutes and regulations.

(2) A covered electronic device for which a payment is made under this subdivision is not eligible for an electronic waste recovery payment or an electronic waste recycling payment under Section 42479.

SEC. 17. Section 42476.5 of the Public Resources Code is amended to read:

1 42476.5. A person who ~~intends to export~~ *exports* covered
2 electronic waste, or a covered electronic device intended for
3 recycling or disposal, to a foreign country, or to another state for
4 ultimate export to a foreign country, shall do all of the following
5 at least 60 days prior to export:

6 (a) Notify the department of the destination, disposition,
7 contents, and volume of the waste, or device intended for recycling
8 or disposal to be exported, and include with the notification the
9 demonstrations required pursuant to subdivisions (b) to (e),
10 inclusive.

11 (b) Demonstrate that the waste or device is being exported for
12 the purposes of recycling *or disposal*.

13 (c) Demonstrate that the importation of the waste or device is
14 not prohibited by an applicable law in the state or country of
15 destination and that any import will be conducted in accordance
16 with all applicable laws. As part of this demonstration, required
17 import and operating licenses, permits, or other appropriate
18 authorization documents shall be forwarded to the department.

19 (d) Demonstrate that the exportation of the waste or device is
20 conducted in accordance with applicable United States or
21 applicable international law.

22 (e) (1) Demonstrate that the waste or device will be managed
23 within the country of destination only at facilities whose
24 operations meet or exceed the binding decisions and implementing
25 guidelines of the Organization for Economic Cooperation and
26 Development for the environmentally sound management of the
27 waste or device being exported.

28 (2) The demonstration required by this subdivision applies to
29 any country of destination, notwithstanding that the country is not
30 a member of the Organization for Economic Cooperation and
31 Development.

32 SEC. 18. Section 42477 of the Public Resources Code is
33 amended to read:

34 42477. (a) On July 1, 2004, or as specified otherwise in
35 Section 25214.10.1 of the Health and Safety Code, and on July 1
36 every two years thereafter, the board in collaboration with the
37 department shall establish an electronic waste recovery payment
38 schedule for covered electronic wastes generated in this state to
39 cover the average net cost for an authorized collector to operate a

1 free and convenient system for collecting, consolidating and
2 transporting covered electronic wastes generated in this state. ~~The~~

3 (b) *The board shall make the electronic waste recovery*
4 *payments either directly to an authorized collector or to a covered*
5 *electronic waste recycler for payment to an authorized collector*
6 *pursuant to this article. ~~The board may make supplemental~~*
7 *~~electronic waste recovery payments to an authorized collector who~~*
8 *~~demonstrates to the satisfaction of the board that the authorized~~*
9 *~~collector's costs for collection, consolidation, and transportation~~*
10 *~~of covered electronic waste exceed the payment allowed pursuant~~*
11 *~~to this section, and that the authorized collector has taken~~*
12 *~~reasonable steps to ensure that its collection, consolidation, and~~*
13 *~~transportation of covered electronic waste is conducted in an~~*
14 *~~efficient and cost-effective manner.~~*

15 (c) *The board shall begin making electronic waste recovery*
16 *payments no sooner than the quarter that begins at least 90 days*
17 *after November 1, 2004, or as provided otherwise by Section*
18 *25214.10.1 of the Health and Safety Code.*

19 SEC. 19. Section 42478 of the Public Resources Code is
20 amended to read:

21 42478. On July 1, 2004, or as specified otherwise in Section
22 25214.10.1 of the Health and Safety Code, and on July 1 every two
23 years thereafter, the board, in collaboration with the department,
24 shall establish a covered electronic waste recycling payment
25 schedule for covered electronic wastes generated in this state to
26 cover the average net cost for an electronic waste recycler to
27 receive, process, and recycle a covered electronic device received
28 from an authorized collector. The board shall make the electronic
29 waste recycling payments to a covered electronic waste recycler
30 pursuant to this article. *The board shall begin making electronic*
31 *waste recycling payments no sooner than the quarter that begins*
32 *at least 90 days after November 1, 2004, or as provided otherwise*
33 *by Section 25214.10.1 of the Health and Safety Code.*

34 SEC. 20. Section 42485 of the Public Resources Code is
35 amended to read:

36 42485. ~~The~~ *Except as provided in subdivision (b) of Section*
37 *42486, the board and the department shall not implement this*
38 *chapter if either of the following occur:*

39 (a) A federal law, or a combination of federal laws, takes effect
40 and does all of the following:

(1) Establishes a program for the collection, recycling, and proper disposal of covered electronic waste that is applicable to all covered electronic devices sold in the United States.

(2) Provides revenues to the state to support the collection, recycling, and proper disposal of covered electronic waste, in an amount that is equal to, or greater than, the revenues that would be generated by the fee imposed under Section 42464.

(3) Requires covered electronic device manufacturers, retailers, handlers, processors, and recyclers to dispose of those devices in a manner that is in compliance with all applicable federal, state, and local laws, and prohibits the devices from being exported for disposal in a manner that poses a significant risk to the public health or the environment.

(b) A trial court issues a judgment, which is not appealed, or an appellate court issues an order affirming a judgment of a trial court, holding that out-of-state manufacturers or retailers, or both, may not be required to collect the fee authorized by this chapter. The out-of-state manufacturers or retailers, or both, shall continue to collect the fee during the appellate process.

SEC. 21. Section 42486 is added to the Public Resources Code, to read:

42486. (a) Except as provided in subdivision (b), the provisions of this chapter shall become inoperative on the date that either of the events described in subdivision (a) or (b) of Section 42485 occurs, and if both occur, the earlier date.

(b) On the date specified in subdivision (a), the provisions of this chapter shall remain operative only for the collection of fees, the liability for which accrued prior to that date, making refunds, effecting credits, the disposition of moneys collected, and commencing an action or proceeding pursuant to this chapter.

SEC. 22. *The sum of up to five million dollars (\$5,000,000) is hereby transferred, as a loan, from the General Fund to the California Integrated Waste Management Board, for transfer to the State Board of Equalization, for expenditure to reimburse the State Board of Equalization for its administrative costs of registering, collecting, making refunds, and auditing retailers and consumers in connection with the covered electronic waste recycling fee imposed under Section 42464 of the Public Resources Code. The loan made under this section shall be repaid to the General Fund on or before July 1, 2005.*

1 *SEC. 23.* No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

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